

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**EMG TECHNOLOGY, LLC**

**Plaintiff,**

**vs.**

**APPLE, INC., et al.**

**Defendants.**

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**CASE NO. 6:08 CV 447  
PATENT CASE**

**EMG TECHNOLOGY, LLC**

**Plaintiff,**

**vs.**

**MICROSOFT CORP., et al.**

**Defendants.**

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**CASE NO. 6:09 CV 367  
PATENT CASE**

**ORDER**

As stated at the Joint Status Conference on February 1, 2010, the Court **GRANTS** Apple Inc.'s Motion to Vacate the Deadlines in the Docket Control and Discovery Orders and For a Case Management Conference (Docket No. 199) and **GRANTS** the parties' joint request to consolidate the above cases.

The 6:08cv447 and 6:09cv367 cases are consolidated for pre-trial purposes.<sup>1</sup> The 6:09cv367 case will be the lead case. The Court **VACATES** all previous scheduling dates in the 6:08cv447

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<sup>1</sup> The Court will take up consolidation issues related to trial at a later date upon motion of the parties.

case.<sup>2</sup> The cases are set as follows:

***Markman* Hearing: January 27, 2011 at 9:30 a.m**

**Pretrial Conference: August 25, 2011 at 9:00 a.m.**

**Jury Selection: September 6, 2011 at 9:00 a.m.**

**Jury Trial: September 12, 2011 at 9:00 a.m.**

In addition, the Court **ORDERS** that Former Magistrate Judge Robert Faulkner, JAMS, 8401 North Central Expressway, Suite 610, Dallas, Texas 75225, (214) 744-5267, (214) 720-6010 (Fax) is appointed as mediator in this case. Mediation shall be conducted in accordance with the Court-Annexed Mediation Plan. *See* Appendix H to Local Rules, available on the Court's website at [www.txed.uscourts.gov](http://www.txed.uscourts.gov).

The parties are to submit agreed Docket Control and Discovery Orders to the Court by **February 16, 2010**.<sup>3</sup> The parties shall include in the Docket Control Order the name and contact information of their appointed mediator, with the first round of mediation taking place before the claim construction hearing.

If the parties are unable to resolve their disagreements concerning the Docket Control and Discovery Orders, the parties shall submit to the Court their competing proposals along with a summary of their disagreements. For purposes of computing the time deadlines under the local patent rules, the Court deems **February 16, 2010** as the effective Rule 16 Initial Case Management

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<sup>2</sup> However, within 10 days after a Protective Order is entered in this case, Defendants Apple and American Airlines shall comply with the existing schedule for disclosures under P.R. 3-3 and 3-4 and Paragraphs 1 and 2 of the existing Discovery Order in Case No. 6:08cv447. This should be reflected in the parties' agreed Docket Control and Discovery Orders.

<sup>3</sup> The Court's standard Docket Control Order and Discovery Order are available on the Court's website at <http://www.txed.uscourts.gov/Judges/Davis/Orders&Forms.htm>.

Conference date. Plaintiff's P.R. 3-1 and 3-2 disclosures will be due **February 19, 2010** as agreed to by the parties in their Joint Conference Report (Docket No. 221).

**So ORDERED and SIGNED this 5th day of February, 2010.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**